

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARY C. RICHARDS and GREGORY DAVID
FRANCESCO GIORGI,

Plaintiffs,

v.

BANK OF AMERICA, N.A.; CAL WESTERN
RECONVEYANCE CORPORATION; and
SUPERIOR COURT OF THE STATE OF
CALIFORNIA IN AND FOR MARIN COUNTY,

Defendants.

No. C 10-01163 CW

ORDER DENYING
PLAINTIFFS' MOTION
FOR RECUSAL
(Docket No. 23)

On June 10, 2010, Plaintiffs Mary C. Richards and Gregory David Francesco Giorgi filed a Motion for Recusal of a Judicial Officer, pursuant to 28 U.S.C. § 455(b)(4). Although accompanied by an affidavit, their current motion for recusal contains the identical argument to one filed on March 17, 2010 in a related case. See Bank of Am. v. Richards, No. 10-1062, Docket No. 9 (N.D. Cal.).

Under 28 U.S.C. § 455(b)(4), judges must recuse themselves if they have "a financial interest in the subject matter in controversy or in a party to the proceeding." "Ownership in a mutual or common investment fund that holds securities is not a 'financial interest' in such securities unless the judge

1 participates in the management of the fund." Id. § 455(d)(4). The
2 judge to whom a motion under § 455 is addressed decides whether
3 recusal is necessary. Bernard v. Coyne, 31 F.3d 842, 843 (9th Cir.
4 1994).

5 As in their March 17 motion, Plaintiffs allege that the
6 undersigned owns "private investments in the banking industry."
7 Mot. at 1. In this motion, they cite the undersigned's financial
8 disclosure report. They do not, however, identify any financial
9 interests that would warrant recusal.

10 Accordingly, Plaintiffs' motion for recusal (Docket No. 23) is
11 DENIED.

12 IT IS SO ORDERED.

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14 Dated: August 13, 2010



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CLAUDIA WILKEN
United States District Judge

UNITED STATES DISTRICT COURT
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NORTHERN DISTRICT OF CALIFORNIA

MARY C. RICHARDS and GREGORY
DAVID FRANCESCO GIORGI,

Plaintiffs,

v.

BANK OF AMERICA N.A., et al.,

Defendants.

Case Number: CV10-01163 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 13, 2010, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the persons hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy into an inter-office delivery receptacle located in the Clerk's office.

GREGORY DAVID FRANCESCO GIORGI
126 Stadium Avenue
Mill Valley, CA 94941

Mary C. Richards
126 Stadium Avenue
Mill Valley, CA 94941

Dated: August 13, 2010

Richard W. Wieking, Clerk
By: MP, Deputy Clerk